

# Border issues



**Mike Stalley**, chief executive of Fiscal Reps, warns of the pitfalls that captives face from a non-harmonised European Union premium tax framework

**T**he success of today's captive industry is principally founded on its expertise in sound risk management and risk transfer principles – long gone are most of the tax advantages that originally led large corporates to self-insure through offshore havens.

However, for an industry renowned for its sophisticated grasp of tax and legal requirements, many captives and their parents still face a little recognised source of risk exposure in the guise of premium tax (IPT) payments.

IPT within the European Union (EU) is calculated by reference to the location of the risk being insured, and not the domicile of the organisation providing the insurance coverage.

Since no distinction is made between captives and more traditional insurance companies, IPT is a tax compliance issue for all captives insuring risks located in the EU regardless of their own domicile.

Location of any risk is determined by reference to the EU Non-Life Directives, which provide a definition that applies to all member states. This ensures that risks can be attributed to specific countries consistently and also ensures risks are not subject to double taxation on premiums within the EU, since they can only be located in one country.

A captive providing insurance coverage to its German corporate parent for a factory located in France, for example, must charge French IPT on the French share of the risk premium. These taxes must then be collected by the captive and reported and paid to the French tax office in accordance with French tax regulations. The captive must further appoint a French resident fiscal representative to act on its behalf with the tax authorities.

These basic principles apply whether the captive is domiciled within the EU

(such as in Ireland, Malta or Gibraltar), outside the EU (for example, Guernsey or the Isle of Man) or elsewhere in the world (such as Bermuda, the US or the Cayman Islands).

## Simple assistance

Life would be much simpler for captives were there a single, uniform EU-wide IPT rate and code, but there is no requirement for harmonisation in this area. Instead each country is free to set its own rates of tax, to decide which classes of business are taxable and to determine the process for the settlement of taxes due. Of the 25 current EU member states, 18 levy taxes on insurance premiums while the remainder have the right to impose such taxes if they choose.

The 20 official languages as well as the 14 different currencies within the EU add further operational burdens to an already complicated IPT system.

In addition, many captives are managed by independent insurance managers on behalf of the captive owner. These captive managers are employed for their risk management and insurance expertise, not for their tax knowledge.

Captives writing programmes for large multinational corporations are likely to cover risks and consequently incur IPT liabilities in many EU countries. Many corporations have operations in multiple sites across many territories.

Also, the movement of management, employees and assets across frontiers to work for different operating units within the same group can have IPT implications.

The combination of potentially large but infrequent IPT liabilities incurred in many EU countries demands a solution that is complete and consistent, but also cost-effective and resource efficient for the captive owner and its manager.

## 👁 Briefing

### ⊕ Premium tax in the EU

# About FiscalReps

Many insurers are finding it difficult to achieve an effective solution for discharging their Insurance Premium Tax obligations within the European Union. IPT is becoming an increasingly complex and time consuming issue for insurers writing EU business, due to the expansion of the EU and the lack of a uniform rate for IPT across the Union.

## Completeness

FiscalReps has developed a unique clearing house service for IPT payments in the European Union, offering insurers a complete solution for the management of their IPT liabilities.

## Expertise

We have the specialist expertise, industry experience and physical network to provide a seamless IPT service across the EU.

## Confidence

We enable insurers to feel confident to take on multi-jurisdictional risks in the EU, knowing that they have an effective solution in place to manage their IPT obligations.

## Advice

In addition to our clearing house service for the payment of IPT within the EU, we are able to provide professional advice to insurers, the buyers of insurance and their professional advisors, assisting them with premium tax compliance issues.

For more information or to discuss any premium tax issues within the EU, please contact us.

### **Fiscal Reps Limited**

10 Fenchurch Avenue  
London, EC3M 5BN  
United Kingdom  
T +44 (0)20 7663 5672

### **Mike Stalley, Chief Executive**

mike.stalley@fiscalreps.com

[www.fiscalreps.com](http://www.fiscalreps.com)